

TITLE 3A

ADMINISTRATION

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CHAPTER 3A-01. APPOINTED OFFICES

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3A-01-010. Appointed Offices.

The City Council may create any appointed office deemed necessary for the government of the City and shall prescribe the powers and duties to be performed by appointed officials, including, but not limited to, the City Manager, City Recorder, City Treasurer, City Attorney, and City Engineer.

3A-01-020. Appointment and Removal.

Appointed officers shall be appointed in accordance with the provisions of this Title and applicable provisions of *Utah Code Ann.* §10-3-901, *et seq.*, as amended, regarding Appointed Officials. Except as otherwise provided herein regarding the appointment of the City Manager, the Mayor, with the advice and consent of the City Council, shall appoint and fill vacancies in all appointed offices provided by law or ordinance. Except as otherwise provided herein regarding the dismissal of the City Manager and unless otherwise provided by law, appointed officers shall serve at the pleasure of the City Council and may be removed with or without cause by a majority vote of the City Council. Unless sooner removed as provided herein, all appointed officers shall continue in office until their successors are appointed and qualified. The City Manager may provide written recommendation to the Mayor and City Council regarding the appointment or dismissal of any appointed officer.

3A-01-030. Oath of Office.

(a) Required. Before entering on the duties of their respective offices, all appointed officers of the City shall take, subscribe and file the constitutional oath of office as set forth in Article IV, Section 10 of the Utah Constitution.

(b) Administered. The oath of office shall be administered by any judge, notary public, or the City Recorder.

(c) Filed. All oaths of office shall be filed with the City Recorder, except that of the City Recorder, which shall be filed with the City Treasurer pursuant to *Utah Code Ann.* § 52-1-4, as amended.

(d) Failure to Comply. No official act of any officer shall be invalid for the reason that he or she failed to take the oath of office.

3A-01-040. Bond.

(a) Required. The Treasurer shall be required to furnish a bond in accordance with the provisions set forth herein. All other appointed officers of the City may, by resolution or ordinance, be required to furnish a personal bond with good and sufficient sureties or corporate surety bond payable to the City in such sum as the resolution or ordinance may establish, conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to law, or such officers may be included within public employee blanket bonds at such amounts as may be determined by the City Council.

(b) Treasurer's Bond. The City Treasurer's bond shall be in the amount established by the State Money Management Council pursuant to *Utah Code Ann.* §51-7-15, as amended.

(c) Filed. All bonds shall be filed with the City Recorder, except the City Recorder's bond, if required, which shall be filed with the City Treasurer.

(d) Premium Charge. The premium charge by a corporate surety for any official bond shall be paid by the City.

(e) Additional Bonds. The City Council may at any time require further and additional bonds of any or all appointed officers of the City by resolution or ordinance.

3A-01-050. Salaries.

(a) Salary. Appointed officers shall receive such compensation for their services as the City Council may fix or amend by ordinance in accordance with notice and hearing requirements set forth in *Utah Code Ann.* §10-3A-818, as amended.

(b) Monthly Compensation. The compensation of municipal officers shall be paid at least monthly.

3A-01-055. Utah Retirement System.

For purposes of determining eligibility under the Utah Retirement System and provisions of the Utah State Retirement and Insurance Benefit Act, as set forth in Title 49 of the *Utah Code*, the City hereby certifies that any appointive officer position requiring less than forty (40) hours of work per week shall be considered a part-time appointive officer position. Unless otherwise provided by law, any appointive officer appointed for the first time to a part-time appointive officer position on or after July 1, 2011, shall not be eligible for participation in the Utah Retirement System.

3A-01-060. Transfer of Records.

Every officer of the City, upon expiration of his or her term for any cause whatsoever, shall within five (5) days after notification and request to do so, deliver to the City all books, property, keys, and records which are the property of the City.

3A-01-070. Conflicts of Interest.

All appointed officers of the City shall conduct themselves in an appropriate manner, including adherence to the conflict of interest provisions of the Utah Officers' and Employees' Ethics Act, set forth at *Utah Code Ann.* §10-3A-1301, *et seq.*, as amended, hereby adopted by reference as if fully set forth herein.

3A-01-080. City Manager.

(a) Appointment. The office of City Manager has been heretofore created and established under existing law and shall continue in force and effect as an appointed office of the City. The City Council shall appoint a qualified person to act as City Manager. Pursuant to *Utah Code Ann.* §10-3b-302, as amended, the Mayor shall have the right to vote in the appointment of the City Manager.

(b) Term of Office and Severance Pay. The City Manager shall serve at the pleasure of the City Council and may be terminated at any time with or without cause. Pursuant to *Utah Code Ann.* §10-3b-302, as amended, the Mayor shall have the right to vote in the dismissal of the City Manager. After the City Manager has been employed by the City for at least one (1) year, if the City Manager is removed thereafter without cause, the City shall pay to the City Manager six (6) months severance pay. The City Manager position is an at-will position and is exempt from the protections of *Utah Code Ann.* §10-3-1105(1)(a), as amended. As such, the City Manager may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* §10-3-1106, as amended.

(c) Office. The City Manager shall maintain an office in City Hall and shall spend such time in the performance of his or her duties as is necessary or as may be required from time to time by the City Council, but not less than forty (40) hours per week. The City Manager need not be a resident or qualified elector of the City, but should maintain his or her residence within a reasonable driving distance of the City.

(d) Resignation. Before voluntarily resigning from the position of City Manager, the City Manager shall give the City Council at least thirty (30) days notice in writing of his or her intent to resign.

(e) Other Employment. The City Manager shall not accept any outside employment in addition to employment by the City without prior annual written approval of the City Council.

(f) Powers of Mayor Not Delegated. The legislative and judicial powers or ceremonial functions of the Mayor, his or her position as chairman of the City Council, and any ex officio position he or she may hold, shall not be delegated to the City Manager. Any changes to the powers and duties of the Mayor, as delegated to the City Manager, shall comply with applicable provisions of *Utah Code Ann.* § 10-3b-303, as amended.

(g) Duties. The City Manager shall at all times be under the control and supervision of the City Council, and shall administer the day-to-day operations of the City and its services according to the policies and programs established by the City Council. The following duties and the authority to perform them are hereby delegated to the City Manager.

(1) Appoint and Remove Employees. Unless otherwise delegated to the Mayor for appointed offices and department heads, the City Manager shall have the authority to appoint, employ and remove employees as provided herein. The City Manager shall also be responsible for reviewing the status and performance of any employee being considered for discharge, transfer, or demotion from appointment or employment with the City. The City Manager may provide written recommendation to the Mayor and City Council regarding the appointment or dismissal of any appointed officer as provided in Section 3A-01-010.

(2) Supervise Officers and Department Heads. The City Manager shall provide direct supervision of and have direct responsibility over the offices of City Recorder, City Treasurer and Department Heads.

(3) Personnel Director. The City Manager shall be the personnel director, and as such shall be responsible for implementing and enforcing the Personnel Policies and Procedures of the City and providing recommendations to the City Council regarding the compensation plan for employees.

(4) Inventory Property. The City Manager should keep or cause to be kept a current inventory showing all real and personal property of the City and its location. The City Manager shall be responsible for the care and custody of all such property, including equipment, buildings, parks

and all other City property which is not by law assigned to some other officer or body for care and control.

(5) **Purchasing and Claims.** The City Manager shall act as purchasing agent for the City, and as such shall implement and enforce all provisions of the ordinances of the City relating to purchasing.

(6) **Council Meetings.** The City Manager should attend all meetings of the City Council and may recommend to the City Council adoption of such measures as the City Manager may deem necessary or expedient.

(7) **Budget Officer.** The City Manager shall act as the budget officer for the City and shall perform or cause to be performed all of the duties of such office as set forth in the Utah Uniform Municipal Fiscal Procedures Act. The City Manager shall also ensure that all executive procedures and activities of the City are in compliance with such Act.

(8) **Review Contracts.** The City Manager shall review and make recommendations to the City Council concerning all proposed contracts to which the City may be a party, and shall see that the terms of any contract to which the City is a party are fully performed by all parties thereto.

(9) **Propose Plans and Programs.** The City Manager should propose plans and programs concerning the development, operation and needs of the City and submit such plans to the City Council to be approved and developed as policy.

(10) **Implement Policy.** The City Manager should implement all policy changes and directives of the Mayor and the City Council through regularly scheduled staff meetings.

(11) **Management Controls.** The City Manager should set performance standards and exercise managerial control to ensure that the City government is functioning in the most efficient and effective manner.

(12) **Organization.** The City Manager should recommend creation and organization of all necessary departments, divisions, bureaus and offices necessary for the government of the City to the City Council for its approval prior to implementation.

(13) **Additional Duties.** The City Manager shall have such other powers and shall perform such other duties and obligations as may be required of him or her by State law or by ordinance, resolution, or policy of the City Council.

3A-01-090. City Recorder.

(a) **Appointment.** On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Recorder. The City Recorder position is an at-will position and is exempt from the protections of *Utah Code Ann.* §10-3-1105(1)(a), as amended. As such, the City Recorder may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* §10-3-1106, as amended.

(b) **Office.** The office of the City Recorder shall be located at City Hall or at some other place convenient thereto as the City Council may direct.

(c) **City Auditor.** The City Recorder shall be ex officio the City Auditor and shall perform the duties of such office; provided, the City may engage the services of an independent auditor to perform audit services for the City from time to time.

(d) **Corporate Seal.** The City Recorder shall keep the Corporate Seal. When certified by the City Recorder under the Corporate Seal, copies of all papers filed in the City Recorder's office and transcripts from all records of the City Council shall be admissible in all courts as originals.

(e) Meetings of City Council. The City Recorder, or his or her designee, shall attend the meetings and keep the record of the proceedings of the City Council.

(f) Actions of City Council. The City Recorder shall record all ordinances, resolutions, and regulations passed by the City Council.

(g) Contracts. The City Recorder shall countersign all contracts made on behalf of the City or to which the City is a party and shall maintain a properly indexed record of all such contracts.

(h) Fiscal Procedures. The City Recorder shall perform all required duties of the Uniform Fiscal Procedures Act for Utah Cities as set forth in *Utah Code Ann.* §§10-6-101, *et seq.*, as amended, or as may be delegated.

(i) Elections and Appointments. The City Recorder shall manage all municipal election procedures and requirements as provided in Title 20A of the *Utah Code Annotated*, as amended, and shall keep a record of all persons elected or appointed to any office within the City, including the date of appointment or election, term of office, date of death, resignation, or removal, and name of person appointed to fill any vacancy. Election duties may be performed by Davis County pursuant to agreement between the City and County.

(j) Records of the City. The City Recorder shall keep all of the books, records, accounts and documents of the City at the Recorder's Office. Such records shall be open for public inspection pursuant to the provisions of the Utah Government Records Access and Management Act.

(k) Warrants. In the event the City is without funds on deposit to pay any lawfully approved claims, the City Recorder shall draw and sign a warrant upon the City Treasurer for payment of the claim, pursuant to *Utah Code Ann.* §10-6-140, as amended.

(l) Limitations. The City Recorder shall not serve as the City Treasurer.

(m) Additional Duties. The City Recorder shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

3A-01-100. City Treasurer.

(a) Appointment. On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Treasurer. The City Treasurer position is an at-will position and is exempt from the protections of *Utah Code Ann.* §10-3-1105(1)(a), as amended. As such, the City Treasurer may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* §10-3-1106, as amended.

(b) Custodian. The City Treasurer shall be the custodian of all money, bonds, or other securities of the City.

(c) Collections. The City Treasurer shall collect and receive all monies payable to the City, including taxes, assessments, licenses, fines, forfeitures, service charges, fees and other revenues of the City. The City Treasurer shall keep an accurate account of all monies received hereunder and shall promptly deposit all such monies in the appropriate bank accounts of the City.

(d) Receipts. The City Treasurer shall give or cause to be given to every person paying money to the City Treasury, a receipt or other evidence of payment therefor, specifying the date of payment and the account paid. The City Treasurer shall file the duplicate of such receipt, a summary report, or other evidence of payment in the office of the City Recorder.

(e) Checks. The City Treasurer, or other person designated by the City Council, shall sign all checks prepared by the City and shall, prior to affixing said signature, determine or cause to be determined that sufficient funds are on deposit in the appropriate bank account of the City to honor such check.

(f) Warrants. In the absence of appropriate monies, the City Treasurer shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the City. The City Treasurer shall note upon the back of each warrant presented the date of presentation and the date of payment, pursuant to *Utah Code Ann.* §10-6-144, as amended.

(g) Special Assessments. All monies received by the City Treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made.

(h) Accounting. The City Treasurer shall keep an accurate and detailed accounting of transactions, receipts, collections, disbursements and other matters within the Treasurer's charge as provided by State law or as the City may by ordinance or resolution direct.

(i) Limitations. The City Treasurer shall not serve as the City Recorder.

(j) Additional Duties. The City Treasurer shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

3A-01-110. City Attorney.

(a) Appointment. The City may contract with, retain, or appoint an attorney licensed to practice law in the State of Utah to the office of City Attorney to provide such legal assistance to the City as may be necessary. The City Attorney shall be appointed by the City Council. The City Attorney shall act as legal advisor to the City in all matters pertaining to contracts with or by the City or questions of legality arising out of any law, ordinance or otherwise, and shall advise all City officers in relation to their official duties.

(b) Criminal Prosecutor. The City may contract with, retain or appoint an attorney or attorneys licensed to practice law in the State of Utah for the performance of criminal prosecutorial legal services.

(c) At-Will Position. If the City hires or appoints a person to act as City Attorney or Criminal Prosecutor, such positions are deemed at-will positions and are exempt from the protections of *Utah Code Ann.* §10-3-1105(1)(a), as amended. As such, any person hired or appointed to act as City Attorney or Criminal Prosecutor may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* §10-3-1106, as amended.

(d) Conflict. Pursuant to authority set forth in *Utah Code Ann.* §10-3A-928, as amended, the City may designate a city attorney from another municipality or a public prosecutor to prosecute a matter, in the court having jurisdiction over the matter, if the city attorney has a conflict of interest regarding the matter being prosecuted.

3A-01-120. City Engineer.

(a) Appointment. The City may contract with, retain, or appoint an engineer licensed to practice engineering in the State of Utah to the office of City Engineer. The City Engineer shall be appointed by the Mayor with the advice and consent of the City Council. Any person appointed or retained as City Engineer shall be a registered professional engineer under Title 58, Chapter 22 of the *Utah Code*, as amended. If the City hires or appoints a person to act as City Engineer, such position is deemed an at-will position and is exempt from the protections of *Utah Code Ann.* §10-3-1105(1)(a), as amended. As such, any person hired or appointed to act as the City Engineer may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* §10-3-1106, as amended.

(b) Records. The City and/or the City Engineer shall maintain all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the City and the holder of such records shall ensure public accessibility to the same as required by law.

(c) Recording. The City Engineer shall record and file all drawings and documents pertaining to public lands and improvements of the City, and shall maintain such records and files in good condition allowing no alteration, mutilation or changes to be made. The recording or filing of any drawing or instrument with the City shall not conflict in any way with the recording or filing of the same in other offices of record.

(d) Fees. The City Engineer shall not record any drawings or instruments, file any papers or notices, furnish any copies, or render any service connected with his or her official duties, until the required fees for the same are paid or tendered as required by law or City ordinance.

(e) Seal. The City Engineer shall have a seal for his or her use, which seal shall be affixed to every certification approval.

(f) Additional Duties. The City Engineer shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.